IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

Crl.Rev.Pet.No. 511 of 1999()

CRA.209/1997 of ADDL. SESSIONS COURT, THRISSUR
CC.277/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

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REVN. PETITIONER:

KANNAN ALIAS SUNIL KUMAR, S/O. SETHULAKHSHMI AMMA, KANIYARCODE VILLAGE, MALAVATTOM DESOM THALAPPALLY TALUK

BY ADV. SRI.K.RAMACHANDRAN
SRI.KRISHNA KUMAR

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE, PAZHAYANNUR.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 08/03/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 2218/1999 IN CRL. R.P. NO. 511/1999

DISMISSED

08.03.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 511 OF 1999

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Dated this the 8th day of March 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 326 of the Indian Penal Code and sentenced, as modified by the appellate court, to undergo simple imprisonment for four months and to pay a fine of Rs.2000/- and in default to undergo simple imprisonment for two months. It is the contention of the revision petitioner that the courts below have failed to appreciate evidence in the proper perspective and has grossly erred in arriving at the conclusion that the accused is guilty of the alleged offences. The prosecution case is that the accused on 28.12.1998 at about 3.45 p.m. caused injuries to PW5 the defacto complainant by beating her with fire wood log infront of Hotel Jayasree at Thiruvilwamala. The evidence adduced in the matter consisted of the testimony of PWs 1 to 10 and Exts. P1 to P4 and MO1. It is seen from the evidence adduced and as per the entries in Ext. P3 wound certificate duly

proved, that PW5 the victim was admitted at the hospital immediately after the incident i.e., at 4 p.m. She has sustained fracture on the left hand apart from the other injuries which are minor in nature. The FIS was recorded at the hospital at 30.12.95 i.e., Ext.P2. The other occurrence witnesses except PW5 the victim turned hostile. PW6, the Assistant Surgeon who had issued Ext.P3 wound certificate has testified in proof of the contents therein. The alleged case mentioned is assaulting her with a stick by the accused herein. Hence, the case with respect to the injuries sustained stands proved from the version of PW5, the recitals in Ext.P5 and the FI statement as well as from the evidence of PW6 the doctor. No contradiction or omission with respect to the previous statement of PW5 has been brought out through the evidence of PW10 the investigating officer. On a consideration of the evidence adduced in the matter, I find no ground at all to interfere in the concurrent findings of the courts below. Hence, the conviction of the accused for the offence under section 326 IPC is confirmed.

2. The counsel for the revision petitioner has sought for leniency pointing out the fact that the incident has taken place more than 10 years ago and that so far the revision petitioner has lived under the shadow of the impending imprisonment. In the circumstances, I find that the sentence is liable to be modified. Hence, the sentence is modified to imprisonment till rising of the court and to pay a compensation of Rs.25,000/- to PW5 vide section 357(3) Cr.P.C and in default to undergo simple imprisonment for six months.

The revision petition is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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